

## Attachment 1—Additional Questions for the Record

### The Honorable John Shimkus

1. **OCSPP** – While some are interested in ensuring EPA actions to limit one or more FIFRA-regulated substances, I am more interested in all FIFRA related activities, particularly in view of the uncertainty about the future deployment of user fees now made available under the Pesticide Registration Improvement Act.

a. If PRIA fees were to expire:

- i. Would this mean the reinstatement of tolerance fees?

**ANSWER – Yes. PRIA prohibits EPA from levying these tolerance fees, but with a lapse of PRIA, the prohibition would expire and EPA would be able to start collecting these fees.**

- ii. If yes, would the reinstatement of tolerance fees produce enough revenue to ensure the robustness reviews mandated by FIFRA?

**ANSWER – According to a Congressional Research Service report titled “Pesticide Registration and Tolerance Fees: An Overview” dated 11/8/12, the average collection of tolerance fees between FY1985 to FY2003 was \$1.8 million. In contrast, EPA’s annual maintenance fee collection target under PRIA is \$27.8 million, and the average PRIA registration service fee collection over the past three years is \$18 million. While it is EPA’s goal that the robustness of EPA review would not change with a reduction in fees, it is likely that the time frames in which EPA conducts its reviews would be impacted. As the majority of maintenance fees collected go to support of pesticide registration review activities, this reduction in fees would severely impact EPA’s ability to meet the statutory deadline of completion of the 725 chemical cases by October 1, 2022. EPA’s performance reviewing other maintenance fee-supported activities such as fast-track amendments to registered products and notifications would also be impacted. In addition, registration service fee actions received after a lapse of PRIA would not receive statutorily-mandated decision review time frames.**

- b. What percentage of staffing expenses are covered by PRIA fees?

**ANSWER - SEPW 5/11 QFR CLEARED RESPONSE: PRIA provides approximately 33 percent of the funding for EPA’s pesticide program activities. Currently operating under the third iteration of the statute, PRIA provides two funding sources to EPA’s pesticide program:**

- **One time registration service fees (i.e., PRIA fees) for the evaluation of new applications submitted to the EPA; and**
- **Annual FIFRA maintenance fees assessed to products currently in the marketplace, a significant portion of which are used to support the re-**

**evaluation of pesticides in order to meet the statutory deadline of October 1, 2022, for completing the first round of registration review.**

c. If PRIA fees expire:

- i. How many EPA employees – both FTE and contract workers – would be impacted, including through the loss of employment?

**ANSWER – Activities reliant on maintenance fee and pesticide registration service fee funds could be supported for a duration of time after a lapse in PRIA relying on carryover registration service and maintenance fee money. Starting on October 1, 2020, EPA would not be able to support approximately 75 FTEs funded by the PRIA fund. Beginning on October 1, 2021, EPA would no longer be able to support an estimated additional 91 FTEs with FIFRA funds, bringing the total FTE count that EPA could no longer support with PRIA and FIFRA funds to approximately 166FTEs. For reference, the current “on-board” OPP count is right around 600 employees, down 42 from the start of FY 2017.**

**There are 32 contracts supported by PRIA pesticide user fees with 49 on-site contractors administering the functions of those contracts.**

- ii. How much in budget resources would EPA need to transfer to OCSPP to make up for lost PRIA revenues for FIFRA activities?

**ANSWER – EPA’s pesticide program activities through two fee funds. On average, EPA collects approximately \$46M in fees each year to support pesticide program activities. To continue to complete registration and registration review decision-making in current timeframes, in the absence of fees, funding for OCSPP’s pesticide activities would need to increase by \$46M. In addition, if PRIA were not reauthorized, \$2 million per year for worker protection activities, pesticide safety education programs, and partnership grants, monies that currently come from PRIA funds, would not be available and these programs would not be funded.**

- iii. What is the impact on the pace of pesticide applications reviews? How much longer will they take?

**ANSWER – Pesticide registration applications received prior to a lapse of PRIA would retain the decision time frames specified in FIFRA section 33. Applications received after the expiration of PRIA would not receive decision time frames. EPA would continue reviewing these applications as expeditiously as possible provided the resources available.**

2. **OCSPP** Legislation pending in Congress would provide PRIA fees for another 3 years, but also address other matters as well.

a. Please explain the need for and characterize the significance of having, including in practical terms:

- i. \$500,000 in funding for efficacy guidelines for public health pesticides;

**ANSWER – This proposed maintenance fee set-aside would provide EPA resources to develop and implement guidance and rulemaking for product performance data requirements to evaluate products claiming efficacy against pests of significant public health or economic importance. This effort, desired by the regulated community and of benefit to those who might be subject to vector-borne illnesses, would give EPA better information on how well a product works against public health pests and organisms, which is part of EPA’s evaluation in determining whether to allow a product onto the market. These products include hospital disinfectants as well as repellants and insecticides that control mosquitoes that are vectors of the Zika virus.**

- ii. \$500,000 for good laboratory practices funding;

**ANSWER – This proposed maintenance fee set-aside would be used to increase the number of laboratory inspections and data audits conducted in support of pesticide product registrations under PRIA, an outcome desired by the registrant community and important to the data integrity of the studies that EPA uses to support its regulatory decisions.**

- iii. An increase in maintenance fees from \$27.8 to \$31 million for review and registration;

**ANSWER – Raising maintenance fees by \$3.2 million annually would provide additional resources for registration review and other specified activities on which maintenance fees can be spent. These additional resources are important to helping EPA meet its statutory obligation to complete the first round of registration review by October 1, 2022.**

- iv. Additional categories and deadlines for products reviewed; and

**ANSWER – PRIA 4 proposes new fee for service categories as well as revisions to existing categories. To name a few examples, PRIA categories for antimicrobial products are revised to be consistent with subpart 158W, there are revisions to time frames and fees for antimicrobial and conventional new products and amendments to existing products that involve the review of product performance data for public health pests, new plant-incorporated protectant (PIP) categories are added, categories for safener inert ingredients are**

established, and a new category is created whereby applicants can receive a determination from EPA on whether or not a proposed product would be subject to registration requirements under FIFRA. These new categories better align time frames and fees to the resources it takes EPA to review those types of applications.

- v. Removal of FIFRA section 4(k)(2).

**ANSWER – Maintenance fees are annual fees assessed to registrants to maintain their product registrations in the marketplace, and are deposited by EPA into the Reregistration and Expedited Processing Fund. These fees are primarily used to support the re-evaluation of pesticides as part of the statutorily-mandated registration review program, the first round of which FIFRA mandates is to be completed by October 1, 2022. These fees also support the agency’s review of inert ingredients, the expedited processing and review of certain applications for products that are substantially similar to registered product and products intended for public health, and the enhancement of information technology systems to improve the review of pesticide registration applications. An unspent balance of over \$40 million has built up in the fund due to decreases in staff levels administering functions that can be charged to the fund (due to attrition, a hiring freeze, and typical time lags involved in recruiting qualified staff to fill key scientific and regulatory positions), and the spending restriction in FIFRA section 4(k)(2)(A), commonly referred to as the “1-to-1” provision.**

**FIFRA section 4(k)(2)(A) states “moneys derived from fees may not be expended in any fiscal year to the extent such moneys derived from fees would exceed money appropriated for use by the Administrator and expended in such year . . .” This provision effectively limits the amount of fees that can be spent in any given fiscal year relative to the amount of annually appropriated dollars that are spent on the same functions in that fiscal year, and likewise prevents EPA from being able to reduce the unspent balance of the maintenance fee fund unless appropriated spending exceeds maintenance fee collection in a given fiscal year. To the extent fee collections have exceeded appropriation spending on the specified functions, the unspent balance has continued to grow and EPA has not been able to reduce the unspent balance in the maintenance fee fund. The removal of FIFRA section 4(k)(2) is essential to EPA’s ability to access these funds paid by registrants in support of registration review and other specified activities.**

- 3. **OAR Beginning in 2023, the agency will have more flexibility to set targets under the Renewable Fuel Standard (RFS). Given EIA projections of a 31 percent decrease in motor gasoline consumption between 2017 and 2050, based upon increases in fuel economy standards and electric vehicles market penetration:**

- a. Will EPA have authority in 2023 and subsequent years to reduce biofuel volume requirements below the existing statutory guidelines? Could this result in fewer gallons of biofuel in the market in the future than exist today?
  - b. Will EPA have authority in 2023 and subsequent years to allow a RIN to be generated by recharging an electric vehicle with electricity generated from a biogas power plant or other renewable energy source?
  - c. Will EPA have authority in 2023 and subsequent years to reorganize the program's four existing nested categories?
4. **OAR** Is EPA engaged in planning for 2023 and subsequent years with regard to the agency's reset authority and the RFS? If so, please describe the range of options that EPA is considering.
5. **OLEM/Superfund** The Folcroft Landfill (Operable Unit 2 of the Lower Darby Creek Superfund Site in Pennsylvania) was placed on the NPL in 2001, and the Remedial Investigation has not been finalized. The July 2017 Superfund Taskforce report recommends inquiry and additional resources for sites on the NPL for five years or more without a significant movement. What inquiries and additional resources have been directed to the Folcroft Landfill which has been on the NPL since 2001 without completion of the Remedial Investigation?

**ANSWER – The schedule and length of time to complete the Remedial Investigation and Feasibility Study (RI/FS) for the Folcroft Landfill, Operable Unit 2 (OU2) of the Lower Darby Creek Area Superfund Site is not attributable to a lack of resources, nor does EPA believe that additional resources are necessary at this time. The duration of the RI is primarily due to lengthy negotiations with a group of potentially responsible parties (PRP Group) to finance and perform the RI/FS, as well as unanticipated findings during the RI/FS and challenging field conditions, as described in detail below.**

**The RI/FS at Folcroft Landfill is being performed by a PRP Group that consists of 14 companies that historically disposed of waste at the landfill. After listing the Site on the National Priorities List in 2001, EPA began negotiations with the PRP Group, which concluded in November 2006 with the signature of an Administrative Order on Consent (AOC) for the RI/FS. The duration of the negotiations was due to both the number of PRPs and technically complicated enforcement evidence.**

**Initial RI field activities were completed in 2008 by the PRP Group in accordance with EPA-approved RI/FS Work Plan. However, in May 2010, based on a review of the initial RI data, EPA identified contaminated groundwater outside of the boundary of the Folcroft Landfill that was not anticipated in the RI/FS Work Plan. The RI/FS Work Plan was subsequently amended in December 2011 to investigate groundwater contamination outside the boundary of the Folcroft Landfill. Significant technical challenges were encountered during the supplemental RI field work due to the location**

of the landfill in a tidal marsh area within the John Heinz National Wildlife Refuge. The supplemental RI field activities were completed in July 2016.

The PRP Group submitted the draft RI Report in May 2017, and the EPA has worked with the PRP Group for the past year to resolve outstanding issues. The PRP Group submitted the draft final RI Report on May 22, 2018, and EPA is currently reviewing the document to ensure that all remaining issues have been addressed. A scoping meeting for the FS was held on May 8, 2017, and subsequent FS discussions were held throughout 2017 and early 2018. EPA and the PRP Group, as well as other site stakeholders such as the Pennsylvania Department of Environmental Protection (PADEP) and US Fish and Wildlife Service (USFWS), will meet on June 18, 2018, to discuss next steps in the FS process.

6. **OLEM/Superfund** The EPA Taskforce Report recommends the establishment of a clarification to the principles for groundwater restoration. What is the goal for groundwater remediation at the Folcroft Landfill (Operable Unit 2 of the Lower Darby Creek Superfund Site in Pennsylvania)?

**ANSWER – The Record of Decision (ROD) for the Folcroft Landfill (Operable Unit 2 of the Lower Darby Creek Superfund Site in Pennsylvania) has not yet been issued; therefore, no groundwater cleanup level has been established. However, in accordance with the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), “EPA expects to return usable groundwaters to their beneficial uses wherever practicable, within a timeframe that is reasonable given the particular circumstances of the site.” The NCP further states that federal Maximum Contaminant Levels (MCLs) “shall be attained by remedial actions for ground or surface waters that are current or potential sources of drinking water.”**

Contaminated groundwater within the boundary of the Folcroft Landfill is within a waste management area and is not considered a potential source of drinking water. However, the contaminated groundwater that extends outside of boundary of the Folcroft Landfill is considered a potential source of drinking water. Therefore, EPA anticipates that federal MCLs will be evaluated as potential cleanup levels for contaminated groundwater outside of the boundary of the Folcroft Landfill.

7. **OLEM/Superfund** This Operable Unit, which is owned by the Department of the Interior, is within the John Heinz Wildlife Refuge.
- a. Do EPA’s goals for groundwater restoration take into account the Department of Interior’s long range plan for the Refuge?

**ANSWER – EPA has coordinated extensively with the Department of Interior (DOI) and the U.S. Fish and Wildlife Service (USFWS) with regard to Operable Unit 2 (OU2), Folcroft Landfill, throughout the Remedial Investigation (RI). Additionally, EPA entered into a Memorandum of Understanding with DOI in 2005 to clearly define the roles of both agencies at this OU. USFWS indicated in a letter dated February 23, 2018, that groundwater extraction for**

various uses is routinely permitted in refuges, if the refuge manager determines that it is appropriate to do so. Currently, the John Heinz National Wildlife Refuge (the Refuge) Comprehensive Conservation Plan (CCP) does not prohibit groundwater extraction on the Refuge, and the USFWS cannot eliminate the possibility that groundwater extraction may be necessary in the future. This is consistent with the EPA's position that groundwater at OU2 is considered a potential future source of drinking water.

- b. Is the Folcroft Landfill eligible for a Technical impracticability waiver for groundwater?

**ANSWER – Any Superfund site is eligible for a technical impracticability (TI) waiver if it is demonstrated that it is technically impracticable, from an engineering perspective, of achieving applicable or relevant and appropriate requirements (ARARs), such as federal maximum contaminant levels (MCLs), throughout the groundwater contaminant plume. EPA and the Potentially Responsibility Party Group (PRP Group) at OU2 have discussed the possibility of a TI waiver at OU2. The PRP Group is currently evaluating the collection of additional groundwater data that would be required to support a TI waiver application.**

- c. What is the process and standard to receive a TI waiver?

**ANSWER – The detailed process for requesting a TI waiver is provided in the following the EPA guidance documents:**

- **OSWER Directive 9234.2-25, Guidance for Evaluating Technical Impracticability of Groundwater Restoration September, 1993;**
- **OSWER Directive 9200.4-14, Consistent Implementation of the FY 1993 Guidance on Technical Impracticability of Groundwater Restoration at Superfund Sites, January 19, 1995;**
- **OLEM Directive 9200.3-117, Clarification of the Consultation Process for Evaluating the Technical Impracticability of Groundwater Restoration at CERCLA Sites, December 28, 2016.**

**In general, in accordance with the guidance, the applicant is required to provide the following information in a TI waiver application:**

- **Specific applicable or relevant and appropriate requirements (ARARs) or media cleanup standards for which TI determinations are sought;**
- **Spatial area over which the TI decision will apply;**
- **Conceptual model that describes site geology, hydrology, groundwater contamination sources, transport, and fate;**
- **An evaluation of the restoration potential of the site, including data and analyses that support any assertion that attainment of ARARs or media cleanup standards is technically impracticable from an engineering perspective. At a minimum, this generally should include a demonstration that contamination sources have been identified and have been, or will be, removed and contained to the extent practicable; an analysis of the**

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performance of any ongoing or completed remedial actions; predictive analyses of the timeframes to attain required cleanup levels using available technologies; and a demonstration that no other remedial technologies (conventional or innovative) could reliably, logically, or feasibly attain the cleanup levels at the site within a reasonable timeframe;

- Estimates of the cost of the existing or proposed remedy options, including construction, operation, and maintenance costs;
- Any additional information or analyses that the EPA deems necessary for the TI evaluation.

**EPA will then evaluate the TI waiver application and decide if a TI waiver is warranted, and issue a Record of Decision documenting the TI waiver.**

- d. How would changes to the process and standards for awarding a TI waiver, as recommended by the July 2017 EPA Taskforce Report, impact the Superfund process at the Folcroft Landfill?

**ANSWER – To date, no changes to the groundwater restoration policy have resulted from the Superfund Task Force Recommendations. If changes to the groundwater restoration policy occur in the future, the groundwater cleanup approach at OU2 will be evaluated accordingly.**

8. **OP** EPA’s recently released proposed rule on increasing transparency in regulatory science states that the proposal is consistent with the requirements for major scientific journals like Science, Nature, and the Proceedings of the National Academy of Sciences.
- a. Why are more journals and scientific institutions implementing these transparency policies?

**ANSWER –The proposed rule is in line with the scientific community’s moves toward increased data sharing to address the “replication crisis,” in which a significant proportion of published research may be false or not reproducible. EPA believes that making regulatory science publicly available in a manner sufficient for independent validation will improve the data and scientific quality underlying EPA’s actions.**

- b. Isn’t replication and verification a key step in the scientific process?

**ANSWER – Replicating and verifying science and data are important ways to ensure that the science and data are sound.**

9. **OP** Despite the many claims made prior to the release of this proposal, would this proposed rule violate any existing federal laws on privacy?

**ANSWER – EPA has sought to ensure that this proposed rule is consistent with existing privacy laws.**



10. **OP** What is this proposed rule's impact on confidential business information (CBI)? Please state how you plan to ensure that in any final rule EPA will neither: be (1) prevented from using science that cannot be published (because it has CBI in it) nor forced into the default position that EPA should endeavor to publicly release all scientific data – including legally colorable CBI – so that this science can be used by the Agency?

**ANSWER – The proposed rule is consistent with existing laws on CBI. EPA will follow all laws relating to CBI in developing the final rulemaking.**

11. **OARM** I understand the Agency is looking at its work force to see how it can better function.

- a. How many people does EPA have working full-time for the Agency in headquarters?

**ANSWER – As of June 6, 2018, the EPA has a total of 7,266 full-time employees in its headquarters program offices. Of these, 4,444 work in the Washington, D.C.-area offices and 2,822 work in EPA's field offices.**

- b. How many people does EPA have working full-time for it in its regional offices?

**ANSWER – As of June 6, 2018, the EPA has 6,574 full-time employees at its regional offices.**

- c. How many contractors currently work for EPA? [if he doesn't know what number ask him for a percentage. If that fails, ask him why not]?

**ANSWER – As of June 6, the number of active EPA contractors with EPA contractor badges is 4,007 including 1,164 contractors in the Washington, D.C.-area offices, and 2,843 contractors in EPA regions and field offices <sup>1</sup>.**

12. **OCI** One of the priorities for the proposed budget includes an "EPA Reform Plan." Projects under this plan include streamlining the permit review process, developing a Lean Management System, and reducing the reporting burden on the regulated community.

- a. Why were these areas made priorities?
- b. What progress has been made so far on these efforts?
- c. Do you have benchmarks and timelines for the Reform Plan?

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<sup>1</sup>The count includes active contractors on active contracts where the individuals have been issued a badge in compliance with the requirements of Homeland Security Presidential Directive (HSPD) 12. HSPD 12 badges are issued when a contractor requires physical or logical access to EPA facilities or network for more than 6 months.

13. **OCI** What are the biggest obstacles to meaningfully reforming EPA to engage the 21st Century?

14. **OCSPP** The proposed budget has four Agency Priority Goals, including that EPA intends to meet statutory deadlines for chemical reviews under the Toxic Substances Control Act. In particular, EPA plans 100 percent compliance with “existing” chemicals and only 80 percent compliance certain “new” chemicals.

Under the law, EPA is the gatekeeper to innovation because these chemicals cannot go to onto the market until EPA decides they can and companies cannot work to improve these chemicals unless EPA says there is a problem.

As of April 17, 2018, EPA’s website was reporting that EPA had 449 pending applications for new chemicals. In addition, the EPA website claims the typical caseload for new chemicals under review is approximately 300 cases.

- a. Is the increase in pending applications – at one-third of EPA’s historical output, due to a higher number of new chemicals applications coming into the Agency at the same time or EPA falling behind again on getting them processed?

**ANSWER – Although the Agency has not seen a significant increase in the number of notifications received, the current caseload number does not mean that EPA is “falling behind.” While the average caseload is around 300, that number can be higher or lower at any given time. Companies often voluntarily agree to suspend the review period to have technical discussions with EPA or to work on developing additional supporting information. Completing these reviews in a timely manner remains a top priority for the Agency. The Agency is taking several steps to address the immediate backlog, and to identify ways to increase overall efficiency for the program to maintain its viability over the long term. For example, we are continuing to increase the number of staff working in the new chemicals program. We’re also currently implementing process improvements identified through a recent LEAN event.**

- b. What do you intend to do to eliminate the backlog and keep it at bay?

**ANSWER – See response to question 14(a).**

- c. One thing the EPA website does not give data on is just how long some of those applications have been sitting at EPA. The law is very clear 90 days and no more than 180 days to review and regulate.
  - i. How many of the 449 new chemicals applications sitting at EPA are less than 90 days old?

**ANSWER – It is important to note that companies often voluntarily agree to suspend the TSCA review period to have technical discussions with EPA or to work on developing additional supporting information.**

**Thus, there is a difference between the time that has elapsed (A) since EPA's receipt of a notice and (B) for purposes of the TSCA review period. For the responses below, EPA is providing statistics for the number of calendar days that a notice has been with EPA – not for purposes of the TSCA review period.**

**46 cases have been with EPA for less than 90 days.**

- ii. How many of the 449 new chemical applications sitting at EPA are more than 90 days old, but less than 180 days?

**ANSWER – 63 cases have been with EPA for less than 180 days.**

- iii. How many of the 449 new chemical applications have been filed with EPA for more than 180 days and what is the range of time on them?

**ANSWER – 340 cases have been with EPA for 180 days or more. The TSCA review period has been voluntarily suspended by the submitters for all of these cases. Of these 93 cases were reset on June 22, 2016, so they have been with EPA the longest. Of those 93 oldest cases:**

- **40 are cases where the submitter is undertaking testing or gathering additional data;**
- **12 are cases involving Consent Orders that have not yet been signed by submitters; and**
- **41 cases involve various types of ongoing issues including: pending EPA issuance of Non-Order SNURs; company is exploring possible ways to mitigate identified risks; and company is in discussions with EPA about developing test protocols and other necessary testing information.**

15. **OCSPP** Under TSCA section 26, the Agency has authority to set fees to defray the costs of chemical testing, new and existing chemical review and regulation and to offset related costs for processing confidential business information. For new chemicals, EPA moved the fee from \$2,500 to \$16,000 – a more than 6-fold increase – and for small manufacturing entities – EPA raised the fee for new chemicals from \$100 to \$2,800 – or a 28-fold increase.

- a. How much impact with these dramatic fee increases have on improving the speed at which the Agency is reviewing new chemicals?

**ANSWER – The fees collected by the Agency under TSCA Section 26 are expected to improve our ability to effectively and efficiently administer the new chemicals program and improve the timeliness of our reviews. Additional fee revenue is expected to enable the Agency to increase the number of staff working in the new chemicals program, and further enhance ongoing efforts identify ways to increase overall efficiency for the program to maintain its viability over the long term, and to implement process improvements identified through a recent LEAN event.**

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b. If not much, then what is the problem?

**ANSWER – See above. The Agency anticipates that fee revenues will help further efforts to improve the timeliness of new chemical reviews.**

16. **OCSPP** The proposed fee rule suggests EPA will see 10 percent fewer new chemical applications based on legal changes to how EPA is supposed to review new chemicals. What kind of new chemical applicant attrition is expected due to the combined fee increase and lack of generated revenue from the chemical?

**ANSWER – The proposed fee rule includes a planning assumption that the Agency will receive 20% fewer new chemicals applications as a result of the increased fees. This assumption is based on the notion that companies may be more selective in terms of which chemicals they submit for review and the timing of those submissions given the higher upfront investment due to the increased fee.**

17. **OLEM/Superfund** Portland Harbor is complex site at which almost 100 potentially responsible parties (PRPs) have been identified. It is my understanding that on March 16, 2018, EPA sent all of the PRPs a letter indicating that EPA will be issuing Special Notice Letters for full performance of the remedial design/remedial action (RD/RA) at the Portland Harbor Site by the end of 2019. However, several of the PRPs have indicated that the allocation process will not be complete by that time, and that the issuance of Special Notice Letters will actually slow the clean-up, because companies will choose to litigate rather than potentially bear the full cost of the clean-up at that point. How will EPA balance the allocation process timeline and issuing the Special Notice Letters?

**ANSWER – EPA is focused on getting the cleanup selected in the Record of Decision (ROD) underway at the Portland Harbor Superfund site as soon as possible. EPA is not privy to the allocation process among the PRPs at the Portland Harbor Superfund site and generally does not get involved in how responsible parties allocate costs among themselves. EPA issued the ROD at the Portland Harbor Site in January 2017. At Portland Harbor, the PRPs are conducting additional sampling to help design the remedy. That sampling also may be relevant to the PRP cost allocation, and is expected to be complete by early 2019.**

**Taking into account the ongoing sampling work and its potential relevance to the allocation process while still maintaining the overall goal to proceed with cleanup, on March 16, 2018, EPA sent a letter to the PRPs to notify them that EPA plans to issue Special Notice letters to commence settlement negotiations, but not until the end of 2019. To maintain progress towards cleanup while the sampling is taking place, EPA also is working with parties to perform remedial design work at specific locations of the site. By the end of 2019, the PRPs should be able to proceed on a parallel path of presenting a plan to implement the Portland Harbor ROD even if there are remaining allocation issues.**

**The Honorable David B. McKinley**

1. **OLEM** I appreciate your commitment to supporting cooperative federalism under the Coal Combustion Residuals (CCR) permitting program by working with states to develop, submit, and implement state CCR permit programs. How is EPA working with states as they develop and submit these plans, particularly those that are seeking to incorporate WIIN Act authorities rather than just adopting the current, self-implementing federal rule?

**ANSWER – EPA has been actively working with states since the passage of the WIIN Act. The agency developed an interim final guidance outlining the process and procedures that the agency generally intends to use to review and make determinations on state Coal Combustion Residual (CCR) permit programs. This document provides guidance to the states for developing and submitting a program to EPA for approval. The guidance is divided into four chapters:**

- **Chapter 1 provides an overview of the provisions of the Water Infrastructure Improvements for the Nation Act (WIIN Act).**
- **Chapter 2 contains the process and procedures the EPA is planning to use to review and make determinations on state CCR permit programs as well as the documentation EPA will ask states seeking approval of a program to submit.**
- **Chapter 3 contains a checklist of all the requirements of the current CCR rule at 40 CFR Part 257 subpart D.**
- **Chapter 4 provides a checklist of those items a state would submit when seeking approval of its CCR permit program.**

**EPA encourages states who are or may be considering submitting a CCR permit program for approval to consult with the agency early in the process. Such consultations will enable EPA and the state to work through any areas where the state program may be different from the federal CCR regulation. The agency is currently working with about a dozen states and we look forward to working with these and other states and key stakeholders as we move forward in implementing the WIIN Act.**

2. **OLEM** As states develop these programs, guidance from EPA will be important. With that in mind, Congress appropriated \$6 million to EPA for FY18 to develop its own federal permitting program for “non-participating states”. Please provide an update on and timeline for the development of that federal permit program.

**ANSWER – EPA has several activities underway which support the development of a federal permit program. First, the agency has been engaged in proposing modifications to the 2015 CCR rule which will provide the basis for both state and federal permit programs. EPA anticipates another proposal later this year, and as part of that, EPA hopes to develop and propose regulations for the federal permit program. In addition, EPA is developing draft templates for permit applications and also permits. Finally, EPA is working with our state**

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**partners to determine which states will be developing their own permit program and which will not, so that federal permitting efforts will not duplicate state efforts.**

The National Association of Scholars recently published a report titled, “THE IRREPRODUCIBILITY CRISIS OF MODERN SCIENCE, Causes, Consequences, and the Road to Reform”. They state, “The Federal government should also consider instituting review commissions for each regulatory agency to investigate whether existing regulations are based on well-grounded, reproducible research. These should establish the scope of the problem by identifying those regulations that rely on un-replicated or irreproducible research, and recommending which regulations should be revoked.”

3. **OP** Will you commit the EPA to investigate whether existing regulations are based on well-grounded, reproducible research?

**ANSWER – EPA supports efforts to ensure that the regulations it promulgates are based on well-grounded, reproducible research. In accordance with Executive Order 13777, EPA is taking steps to identify regulatory issues, including the basis for existing regulations, through ongoing regulatory reform efforts.**

4. **OP** Will you commit the EPA to identify those regulations that rely on un-replicated or irreproducible research?

**ANSWER – EPA supports efforts to ensure that the regulations it promulgates are based on well-grounded, reproducible research. As discussed above, per E.O. 13777, EPA is taking steps to identify regulatory issues through continuing regulatory reform efforts.**

5. **OP** Will you provide a report to our committee and my office with the results of your investigation?

**ANSWER – EPA is open to providing updates on its regulatory reform efforts as they continue. EPA provides ongoing information about its regulatory reform efforts at <https://www.epa.gov/laws-regulations/regulatory-reform>.**

6. **OP** Will you provide a report to our committee and my office regarding if the endangerment finding for CO2 was based upon well-grounded, reproducible research?

**ANSWER – EPA welcomes the opportunity to address specific issues with the committee, and encourages you to reach out to EPA staff to further discuss this request.**

Administrator Pruitt, I know that the ethanol industry has recently attacked the EPA for granting small refinery hardship relief.

7. **OAR** Does the Clean Air Act establish small refinery hardship relief?

Answer:

**SEPW 5/11 QFR CLEARED RESPONSE: Section 211(o)(9)(B) of the CAA and 40 CFR 80.1441(e)(2) allow EPA to grant an extension of a small refinery's exemption from compliance with its renewable fuel volume obligations for a given year based on a small refinery's demonstration of "disproportionate economic hardship" in that year. The statute also directs EPA to consult with the Department of Energy (DOE) in evaluating small refinery exemption petitions. EPA will grant a hardship exemption if we conclude, after review of available information and in consultation with DOE, that a refinery will experience disproportionate economic hardship that can be relieved in whole or in part by removing its RFS obligations for that year.**

8. **OAR** Has the Congress affirmed this on several occasions by directing the DOE to study this issue and, more recently, reminding the EPA that it did not intend for small refineries to bear a disproportionate regulatory burden?
9. **OAR** Did the DOE's 2011 report for Congress predict that harm to small refineries would increase over time, not diminish?
10. **OAR** Did the 10th circuit decision last year instruct the EPA to grant small refinery hardship relief?

Some have made the argument that hardship relief results in "demand destruction" for ethanol by resulting in less blending. Regardless of if small refineries receive hardship relief, they are incentivized to blend ethanol for many economic reasons: 1) it is cheaper than gasoline, 2) they must meet their RVO, and 3) they can sell RINS not needed for compliance.

11. **OAR** Was ethanol consumption up in the first quarter of 2018?
12. **OAR** Was it, in fact, higher than projected in November of 2017 when RINS were 80-90 cents a gallon?
13. **OAR** Did ethanol consumption increase throughout 2017 despite hardship relief?

President Obama used an EPA "veto" twice in unprecedented fashion. The Spruce Coal Mine located in West Virginia, had the required permits and approvals in hand, when the EPA "vetoed" the project. The project went through the entire regulatory process and was approved by ALL parties. Then the Obama Administration's "War on Coal" went into high gear. The EPA vetoed the project. The second instance was the Pebble Mine in Alaska, where they vetoed the project prior to the approval process starting. Both instances of using the EPA veto are very dangerous if they are allowed to stay in place. A future administration can use the veto to shut down the entire coal mining industry if both precedents are not reversed by the EPA. I can think of no greater threat to the industry.

14. **OW** Will you consider revoking both the Spruce Mine and Pebble Mine vetoes?

**ANSWER – Regarding Pebble Mine, the EPA has not made a Final Determination pursuant to Section 404(c). In 2014, the EPA issued a Proposed Determination**

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pursuant to 404(c) regarding Pebble Mine. In 2017, the EPA considered withdrawing that Proposed Determination but, as outlined in its January 26, 2018, decision, the EPA suspended the proceeding to withdraw the Proposed Determination and left that Proposed Determination in place pending consideration of any other information that is relevant to the protection of the world-class fisheries contained in the Bristol Bay watershed in light of the permit application that has now been submitted to the U.S. Army Corps of Engineers by the mine proponent. The EPA's January 2018 decision neither deters nor derails the Corps' review of Pebble's Section 404 permit application, which is currently ongoing. Regarding Spruce Mine, the EPA issued a Final Determination under 404(c) in 2011 that protected portions of the mine site with high ecological value from being adversely impacted by the mine's development. The mine proponent has been exploring development of revised proposals to expand mining at the site. If a revised proposal is developed and submitted to the EPA, the agency would review and consider it.

15. **OW** Do you believe that the EPA should have the authority to preemptively veto development projects under Section 404 of the Clean Water Act before any permit applications have been submitted to the Army Corps of Engineers?

**ANSWER – EPA believes it has the authority to exercise its discretion under Section 404(c) to restrict, prohibit, or deny the discharge of dredged or fill material “whenever” it makes the requisite finding that the discharge will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery, wildlife, or recreation areas, and EPA takes very seriously the authority it was provided by Congress pursuant to Section 404(c). As a general matter, EPA has policy concerns about issuing a final determination under Section 404(c) before the submission of a permit application to the Corps or the completion of an EIS. EPA’s decision whether to exercise such authority preemptively would involve considerations of basic fairness and due process.**

16. **OW** President Trump, in his Infrastructure Initiative, has proposed legislation that eliminates entirely EPA’s authority to veto projects under the Clean Water Act. Why have you taken a position, by leaving in place the Pebble veto, that is different than the President’s policy?

**ANSWER – The EPA’s January 26, 2018 decision suspends the proceeding to withdraw the Proposed Determination and leaves that Determination in place pending consideration of any other information that is relevant to the protection of the world-class fisheries contained in the Bristol Bay watershed in light of the permit application that has now been submitted to the Corps. This decision neither deters nor derails the Corps’ review of Pebble’s Section 404 permit application, which is currently ongoing.**

**In making the decision regarding whether to withdraw the 2014 Proposed Determination at this time, the EPA considered its relevant statutory authority, applicable regulations, and the input it received as part of the tribal consultation, Alaska Native Claims Settlement Act, Corporation consultation, and public comment periods regarding the agency’s reasons for its proposed withdrawal, as well as recent**



developments, including Pebble's submittal of a Section 404 permit application to the U.S. Army Corps of Engineers in December of 2017. The EPA received more than one million public comments regarding its proposal to withdraw the 2014 Proposed Determination, the overwhelming majority of which expressed opposition to withdrawal.

17. **OW** Isn't it correct that under the applicable regulations the Army Corps of Engineers cannot issue a permit to a project developer if the EPA has even begun the process of issuing a veto?

**ANSWER** – While it is true that the Army Corps cannot issue a permit while a pending 404(c) determination proceeding is ongoing, the Corps' regulations allow it to accept, review, and process a permit application for a proposed project even if EPA has an ongoing Section 404(c) review for that project. The Corps is processing Pebble's permit application consistent with its regulations, including developing an Environmental Impact Statement for the Pebble Project. EPA's decision to suspend the withdrawal process states that it will review and consider any relevant information that becomes available to inform future Section 404(c) decisions regarding the Pebble Project.

18. **OW** Is there any environmental harm that occurs whatsoever by allowing a permit application to be considered by the Army Corps of Engineers without a veto pending?

**ANSWER** – As a general matter, EPA has policy concerns about issuing a final determination under Section 404(c) before the submission of a permit application to the Corps or the completion of an EIS. EPA believes that a decision regarding whether to exercise its section 404(c) authority preemptively would involve considerations of basic fairness and due process. To be sure, the Corps' regulations allow it to accept, review, and process a permit application for a proposed project even if the EPA has an ongoing Section 404(c) review for that project. Pebble has now submitted its permit application to the Corps and the Corps has initiated its permit review process and begun taking steps to develop an EIS for this project. These actions resolve any potential uncertainty about Pebble's ability to submit a permit application and have that permit application reviewed by the Corps.

The EPA's January 26, 2018 decision to suspend the withdrawal process states that the EPA will review and consider any relevant information that becomes available. This will allow EPA to get the information needed to determine what specific impacts the proposed mining project will have on those critical resources.

19. **OW** Isn't it better to wait until the Army Corps of Engineers has decided whether to grant a permit before EPA issues a veto, if one is to be issued at all?

**ANSWER** – As a general matter, EPA has policy concerns about issuing a final determination under Section 404(c) before the submission of a permit application to the Corps or the completion of an EIS. EPA believes that a decision regarding whether to exercise its section 404(c) authority preemptively would involve considerations of

basic fairness and due process. To be sure, the Corps' regulations allow it to accept, review, and process a permit application for a proposed project even if the EPA has an ongoing Section 404(c) review for that project. Pebble has now submitted its permit application to the Corps and the Corps has initiated its permit review process and begun taking steps to develop an EIS for this project. These actions resolve any potential uncertainty about Pebble's ability to submit a permit application and have that permit application reviewed by the Corps.

The EPA's January 26, 2018 decision to suspend the withdrawal process states that the EPA will review and consider any relevant information that becomes available. This will allow EPA to get the information needed to determine what specific impacts the proposed mining project will have on those critical resources.

20. **OW** Has EPA ever before issued a preemptive veto of the sort you have left in place with your decision not to withdraw the veto of the Pebble mine?

**ANSWER – Of the 13 Final Determinations completed by the EPA, two involved circumstances where permit applications had not yet been submitted to the Corps, both of which were completed nearly thirty years ago. Although Section 404(c) actions are extremely rare, and rarer still in advance of the submittal of a permit application, the EPA's 2014 Proposed Determination is not unprecedented.**

21. **OW** In the Agency's decision not to withdraw the preemptive Pebble veto, you cited the risk created by the project. In doing so, you are relying on the Bristol Bay Watershed Assessment, which many of the Agency's own peer reviewers said was insufficient to support a regulatory decision. Why are you relying on science that has been discredited?

**ANSWER – The EPA published its proposal to withdraw its CWA Section 404 (c) Proposed Determination in July 2017 and took public comment, held two public hearings in the Bristol Bay region, and consulted with tribal governments and Alaska Native Claims Settlement Act (ANCSA) Corporations from the Bristol Bay region. The EPA received more than a million public comments on its withdrawal proposal. In making its decision not to withdraw the Proposed Determination at this time, the EPA considered its relevant statutory authority, applicable regulations, and the input it received as part of the tribal consultation, ANCSA consultation, and public comment periods regarding the agency's reasons for its proposing withdrawal as well as the recent developments (e.g., the submittal of Pebble's permit application to the Army Corps).**

**The Honorable Gregg Harper**

1. **OAR** Does the Clean Air Act establish small refinery hardship relief?

Answer:

**SEPW 5/11 QFR CLEARED RESPONSE: Section 211(o)(9)(B) of the CAA and 40 CFR 80.1441(e)(2) allow EPA to grant an extension of a small refinery's exemption from compliance with its renewable fuel volume obligations for a given year based on a small**

refinery's demonstration of "disproportionate economic hardship" in that year. The statute also directs EPA to consult with the Department of Energy (DOE) in evaluating small refinery exemption petitions. EPA will grant a hardship exemption if we conclude, after review of available information and in consultation with DOE, that a refinery will experience disproportionate economic hardship that can be relieved in whole or in part by removing its RFS obligations for that year.

2. **OAR** Has the Congress affirmed this on several occasions by directing the DOE to study this issue and, more recently, reminding the EPA that it did not intend for small refineries to bear a disproportionate regulatory burden?
3. **OAR** Did the DOE's 2011 report for Congress predict that harm to small refineries would increase over time, not diminish?
4. **OAR** Do small refineries typically produce more diesel than gasoline?
5. **OAR** Blending gasoline with ethanol to current standards will separate more RINs than blending the same volume of diesel. EPA's RVO calculation, however, imposes the same proportional ethanol RIN obligation on all refiners even though some produce significantly less gasoline and more diesel than others. Even if they blend all their production, these diesel rich refiners cannot separate enough RINs to meet their total obligation while their gasoline rich competition will separate more than required. These refiners who produce more diesel are then forced to buy RINS.

Does the hardship process give EPA a tool to mitigate this structural discrimination against these small refineries?

6. **OAR** RFA has made the argument that hardship relief results in "demand destruction" for ethanol by resulting in less blending. Regardless of whether or not small refineries receive hardship relief, they are incentivized to blend ethanol for a number of economic reasons: 1) it is cheaper than gasoline, 2) they must meet their RVO, and 3) they can sell RINS not needed for compliance.
  - a. Was ethanol consumption up in the first quarter of 2018?
  - b. Was it, in fact, higher than projected in November of 2017 when RINS were 80-90 cents a gallon?
  - c. Did ethanol consumption increase throughout 2017 despite the EPA granting small refinery hardship relief?
7. **OLEM** Some of my constituents have raised an issue regarding oil spill response training. I am told that the funding for certain training courses for federal and local responders involved in inland oil spill prevention and cleanup has been eliminated and that the EPA Environmental Response Team is no longer able to consistently make these courses available.

- a. With an increase in oil production across the country, there remains a need for oil spill response training for local, state, and federal responders. Would you commit to looking into whether funding can and will be made available for this important training?

**ANSWER - The agency will continue to provide oil spill inspector training to federal and state inspectors.**

8. **OAR** I want to applaud the work EPA is doing to streamline or eliminate unnecessarily costly regulations. And while most of the attention is focused on major rules like the Clean Power Plan or Waters of the United States, I am particularly pleased that under your leadership EPA is taking a second look at other regulations that may not be major but nonetheless have a serious impact on small businesses. In particular, I hear that EPA is reviewing the Obama era rule targeting wood heater manufacturers such as Hardy Manufacturing back in my district. But time is of the essence, as the regulatory deadlines are coming soon. Can you assure us that you will do all you can to provide timely regulatory relief for wood heater manufacturers?

**The Honorable Tim Walberg**

1. **OAR** This is a very technical issue but an extremely important one to manufacturers in Michigan. In 2011, EPA approved the use of Isobutane as a refrigerant and limited the amount of refrigerant that could be used in a refrigerator to 57 grams. This amount was based on a well-recognized safety standard limit at the time. However, the safety standard has since been updated to increase the allowable amount of refrigerant to 150 grams. These refrigerants are more environmentally friendly and supported by both industry and environmental advocates yet manufacturers are still in limbo as they await EPA's rulemaking.
  - a. Can you commit to working on this issue to recognize the updated safety standard so manufacturers can begin retooling and redesigning refrigeration products? Delay will only add cost to American workers and our manufacturing shop floors.
  - b. I know you have a lot of issues to deal with at the EPA, but I urge you to publish the technical correction without delay. It's my understanding refrigerator manufacturers have been working with your staff at the EPA for over a year now on this and would welcome the update.
2. **OAR** ENERGY STAR is an important program and one that consumers in my district value. Over the past year, manufacturers in my state have stressed the need for the program to be reformed. In the FY18 Omnibus Appropriations package, EPA and DOE were directed to revisit the Obama era Memorandum of Understanding (MOU) that changed the way the program was managed and report back to Congress within 90 days.

- a. The 2009 MOU for example moved home appliances out of DOE and over to EPA, where the products had never been managed before. DOE has the expertise in these products because they regulate them through the appliance standards program required by EPCA. It doesn't make sense to me to have duplicative programs built up within two agencies. From a good governance perspective and in the era of streamlining programs under the EPA's purview, I would like to hear from you on this specific topic.
- b. Would you support moving the ENERGY STAR program for home appliances back to DOE while still maintaining a majority of the management within EPA? It's my understanding a broad set of industries are eager to work with your agency on these issues and I look forward to working with you to revisit the MOU.

### **The Honorable Earl L. "Buddy" Carter**

#### **EPA Marine Engine Waivers**

In a recent Energy & Commerce Committee hearing, you mentioned that you would now be personally involved in the marine engine waiver issue for pilot boats, after giving the commitment to look into in your December testimony from the committee. This is a pressing issue that could have a wide-ranging impact on our port operations and growth.

1. **OAR** Mr. Administrator, can you please provide a breakdown of the actions the EPA has taken to address the Tier 4 concerns?
2. **OAR** Please provide a timeline of what the EPA has done and any upcoming actions that will be taken by the EPA to address this concern.
3. **OAR** After you send technical experts to California, what will need to be done?
4. **OAR** Does the EPA have the authority to move forward with a waiver system? If not, what are your legal restrictions?

#### **Tier 4 Restrictions for Generators**

1. **OAR** Administrator Pruitt, I have a similar concern for the Tier 4 restrictions placed on large, 1-megawatt generators. It's my understanding that the Tier 4 restrictions are preventing Tier-4 generators from being sold in the market due to that and the portability restrictions. It's forecasted that there won't be a viable solution in the market until the early 2020s. Is this something you are working on?
2. **OAR** What would need to be done by the EPA to remedy this situation and allow for the sale of currently developed generators?
3. **OAR** Is the EPA currently reviewing this concern or working on any changes that would remedy it?

## **Biomass**

I commend you for your policy statement clarifying biomass carbon neutrality on Monday, April 23 in my home state of Georgia. As you know, the Consolidated Appropriations Act of 2018 included language in Section 431 Policies Relating to Biomass Energy directing the Secretaries of Energy and Agriculture and the Administrator of the Environmental Protection Agency to establish clear and simple policies that reflect the carbon-neutrality of forest bioenergy and recognize biomass as a renewable energy source provided the use of forest biomass does not cause the conversion of forests to non-forest use.

1. **OAR** What is the EPA's progress in implementing a regulation on carbon neutrality of biomass? What are the next steps?

## **The Honorable Jeff Duncan**

Some of my corporate constituents are subject to complex and, at times, inconsistent regulation by the Environmental Protection Agency. Inconsistent actions or interpretations by EPA are particularly burdensome to my constituents when the Agency's Policy and Enforcement Offices take positions that are at odds with each other. To that end, please explain whether, and to what extent, EPA's Office of Enforcement and Compliance Assurance ("OECA") consults with EPA's Office of Transportation and Air Quality ("OTAQ") prior to initiating any enforcement action involving a certification issued by OTAQ (for example, an enforcement action alleging uncertified engine parameters).

1. **OECA/OAR** In addition, what steps can be taken by EPA to improve and streamline consultation between OTAQ and OECA to avoid unnecessary hardship on the regulated community?

**ANSWER: EPA's Office of Enforcement and Compliance Assurance (OECA) consults with the Office of Transportation and Air Quality (OTAQ) on all significant enforcement actions. OECA staff and middle management have weekly meetings with their OTAQ counterparts on enforcement matters. This partnership ensures efficient use of government resources and consistent compliance expectations for the regulated community.**

**EPA believes the current process for coordination between OECA and OTAQ is appropriate.**

During the last Administration, many Energy Star program operations were shifted from the Department of Energy, where they had been since 1996, to EPA. I understand from home appliance manufacturers that they would like Energy Star efforts related to home appliances transferred back to the DOE. One of these is Electrolux, a home appliance manufacturer that has a large presence in my district in Anderson, SC. This is an important issue for South Carolina as we have recently seen a great deal of investment in the home appliance industry. In Newberry, SC Samsung recently

opened its first U.S. based home appliance manufacturing facility and is on track to create over 1,000 jobs by 2020.

1. **OAR** With the Appliance Standard program at DOE and Energy Star at EPA, companies currently have two federal agencies attempting to coordinate changes in product specifications and test procedures on the same products. This creates unnecessary cost, confusion and uncertainty for manufacturers and does not appear to bring any benefit to consumers. **Administrator Pruitt**-are there any efforts to make such a change?
2. **OAR** Wouldn't this change fit in with your desire to get EPA back to its core functions?

**The Honorable Frank Pallone, Jr.**

During your appearance on April 26th, you stated that purchasing real estate through a Limited Liability Corporation, or LLC, is "normally how you buy real estate in Oklahoma." Your ownership stake in that LLC was not included in your financial disclosures at the time.

1. **IO/OGC** How often have you purchased real estate through an LLC?
2. **IO/OGC** Do you currently own property through an LLC or have a stake in an LLC that owns property?
3. **IO/OGC** Please list all property you have purchased and/or owned a stake in through an LLC.
4. **IO/OGC** Please explain why your ownership stake in Capital House, LLC was not listed in your financial disclosures at the time.

Also at the April 26th hearing, you disavowed knowledge of whether you had paid taxes on the income from your ownership stake in Capital House LLC. You said "you provide information to your accountant, they determine what you pay."

5. **IO/OGC** Did you sign your tax filings for the years in question? Do you take responsibility for the accuracy of the information contained therein?

Extensive questions have been raised about your tax liability for the expenses of your security detail when they accompanied you on personal travel, including to Disney World and the Rose Bowl.

6. **IO/OGC** Did you pay taxes on that benefit?

It has been revealed that the EPA reimbursed your former landlord, Vicki Hart, for the repair of a door at your residence.

7. **IO/OGC** Did you reimburse the EPA for that expense?

8. **IO/OGC** If not, did you pay taxes on that income?

During the Administrator's April appearance before the Subcommittee, Chairman Walden underscored the importance of staffing and internal management issues at EPA, stating "it is essential that EPA have the staff with proper expertise, implementing and enforcing programs that correlate with their experience."

9. **OCFO** Please provide the Committee a copy of the EPA's reorganization plan submitted to OMB pursuant to Executive Order 13781, including any interim and final drafts submitted to OMB.

10. **OCFO** Please provide the Committee a copy of the EPA reform plan.

11. **OCFO** Explain the similarities and differences between the reform plan and the reorganization plan.

12. **OARM** Please provide the Committee a copy of the EPA's operating plan for new hires and indicate how many new employees EPA plans to hire in each program office.

13. **OARM** Please provide the Committee with the names of political and career members of the hiring review panel.

a. On what criteria were the panel members chosen?

b. What procedures do the offices need to do to make a hiring request of the panel?

14. **OARM** When filling a position from within the agency, how is it determined a staff member possesses the technological skills appropriate for the office of which they are being transferred?

15. **OARM/OCFO** Please provide the following information:

a. FTE on EPA payroll in regional offices and in HQ.

b. The number of employees that have left the EPA through attrition during 2017 and 2018, and the numbers from each office.

c. Please provide a list of employees that have been moved to a new position within the agency, including their previous office, title, position description, and their new office, title, and position description.

d. The predetermined employee headcounts for each office.

**The Honorable Bobby L. Rush**



During the question period I spoke to you about the widespread levels of lead that have been detected throughout homes in Chicago and I referenced a recent Tribune article entitled “Brain-damaging lead found in tap water in hundreds of homes tested across Chicago, results show” (April 12, 2018).

You agreed with me that this was a severe problem, nationally, and it would cost approximately \$45 billion to resolve. You mentioned that there was a program at the agency consisting of \$4 billion in grants, annually, for ten years that states could apply for to address this issue.

1. **OW** Can you provide more information regarding this program, including eligibility requirements, deadlines, and the dollar amounts available?

**ANSWER - The program is the Water Infrastructure Finance and Innovation Act. The WIFIA program is authorized to provide and service direct federal loans and loan guarantees to cover 49 percent of eligible costs for drinking water and wastewater infrastructure projects. Eligible assistance recipients include corporations and partnerships, municipal entities, and State Revolving Fund (SRF) programs. The WIFIA program received \$63 million in funding in the Consolidated Appropriations Act, 2018, that could provide as much as \$5.5 billion in loans, leveraging over \$11 billion in water infrastructure projects.**

**On May 5, 2018, EPA announced that the deadline for prospective borrowers to submit letters of interest for WIFIA loans has been extended to July 31, 2018. Administrator Pruitt also sent a letter highlighting the deadline extension to the governors of 56 states and territories as well as tribal leadership. This year’s WIFIA Notice of Funding Availability highlights the importance of protecting public health, including reducing exposure to lead and other contaminants in drinking water systems and updating the nation’s aging infrastructure.**

**For more information about the WIFIA program and the application process please visit [www.epa.gov/wifia](http://www.epa.gov/wifia)**

2. **OW/OP/R5** Will you commit to work with my office to have staff from EPA Region 5 come into my district to discuss this program with state and local leaders, as well as other stakeholders concerned with this issue?

**ANSWER - EPA’s WIFIA team is available to meet with your staff and leaders and constituents in your district to discuss the program and to answer any questions.**

**The Honorable Diana DeGette**

1. **AO/OGC** I questioned you about your legally dubious real estate transactions, but further information is needed in light of your incomplete answers and troubling new developments.<sup>2</sup>

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<sup>2</sup> House Committee on Energy and Commerce, *Hearing on the Fiscal Year 2019 Environmental Protection Agency Budget*, 115th Cong. (Apr. 26, 2017).

In your testimony before the Subcommittee, you failed to disclose significant details concerning your 2003 purchase of a luxury home in Oklahoma City. According to a recent report in the *New York Times*, you purchased the home with Justin Whitefield, a registered lobbyist who, at the time, was pursuing business-friendly changes to Oklahoma's workers' compensation rules, which you allegedly helped negotiate.<sup>3</sup> Mr. Whitefield, yourself, and four other owners reportedly used a limited liability company, Capitol House L.L.C. (Capitol House), to purchase the home.<sup>4</sup> The seller, Marsha Lindsey, was a telecommunications lobbyist for SBC Oklahoma, and sold the property at a significant discount of approximately \$100,000.<sup>5</sup> SBC Oklahoma reportedly offset this amount in Ms. Lindsey's retirement package.<sup>6</sup>

Your incomplete testimony leaves key questions unanswered concerning this transaction. You allegedly paid for one-sixth of the purchase price, and according to reports, you purchased the home with Kenneth Wagner, who now serves as a political appointee at EPA and previously served as treasurer of your political action committee,<sup>7</sup> as well as health care executive Jon Jiles.<sup>8</sup> However, the identity of two additional owners remains unknown.

You also apparently failed to disclose your interest in Capitol House in your financial disclosure filings, and in your testimony could not confirm whether you paid taxes on rental income received for a room on the property rented to another Republican lawmaker.<sup>9</sup>

Given your history of real estate transactions with lobbyists both in Oklahoma during your tenure as a state legislator and in Washington, D.C. while serving as EPA Administrator, and in light of these troubling developments, I ask that you respond to the following requests:

- a. Please provide the names and corresponding ownership share of all owners of Capitol House.

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<sup>3</sup> *Pruitt's Coziness with Lobbyists Includes Secretly Buying a House with One*, New York Times (May 3, 2018).

<sup>4</sup> *Pruitt's Coziness with Lobbyists Includes Secretly Buying a House with One*, New York Times (May 3, 2018).

<sup>5</sup> *Pruitt's Coziness with Lobbyists Includes Secretly Buying a House with One*, New York Times (May 3, 2018).

<sup>6</sup> *Pruitt's Coziness with Lobbyists Includes Secretly Buying a House with One*, New York Times (May 3, 2018).

<sup>7</sup> *Pruitt's Friend Joins Agency as Senior Adviser*, E&E News (Apr. 13, 2017).

<sup>8</sup> *Pruitt's Coziness with Lobbyists Includes Secretly Buying a House with One*, New York Times (May 3, 2018).

<sup>9</sup> *Scott Pruitt Before the EPA: Fancy Homes, a Shell Company and Friends with Money*, New York Times (Apr. 21, 2018).

- b. Please provide documentation of your payment for and purchase of an ownership share in Capitol House, including the terms of the payment and the individual or entity who received the payment.
- c. Please provide copies of your financial disclosures disclosing your ownership interest in Capitol House.
- d. Please provide the name of the individual(s) who arranged for cash purchase of the Oklahoma City property and subsequent transfer of ownership to Capitol House.
- e. Please provide the name of the individual(s) who requested or arranged for Spirit Bank, where former EPA appointee Albert Kelly was chief executive, to approve a mortgage in the name of Capitol House.
- f. Please provide documentation demonstrating you paid taxes on all rental income received from Jim Dunlap or any other tenant who rented space on the property, including, but not limited to, Schedule K-1 tax forms.
- g. Please provide documentation of any proceeds you received for the 2005 sale of the property, including the amount and date received.

**The Honorable Janice D. Schakowsky**

1. **OPA/AO Speeches:** Please provide the date, location, name of event, and text for all speeches you have given to industry associations (e.g. Louisiana Chemical Association) in your capacity as EPA Administrator.
2. **OPA/AO Official vehicle:** During the hearing, you stated that EPA staff “just asked for consultation” on the selection of your official vehicle. During this consultation, did you or people responding on your behalf express a preference for a larger vehicle, leather interior, bucket seats, Wifi, GPS navigation, or any other luxury features that were ultimately included in the vehicle selected?
3. **OP/OPA/AO Samantha Dravis:**
  - a. At any time during Samantha Dravis’s employment at EPA, was she employed or compensated using authority under the Safe Drinking Water Act?
  - b. How much was Samantha Dravis compensated during the three months from November 2017 to January 2018?
  - c. According to the EPA’s own spokesperson, Ms. Dravis was a “senior leader at the EPA.” Do you have record of meetings attended in person or substantial projects completed by Samantha Dravis during the three months from November 2017 to January 2018? If so, please summarize. Please provide all records of meetings attended in person or substantial projects completed, as well as any emails between

Administrator Pruitt and Ms. Dravis concerning her attendance or departure from the EPA.

- d. Was Samantha Dravis approved for first class travel to or from Morocco in December 2017? If so, who at EPA approved first class travel and on what date?

**The Honorable Paul Tonko**

1. **OP/ORD** Strengthening Transparency in Regulatory Science Proposed Rule

- a. Please cite specific provisions in statute that require EPA to make the changes proposed in the Strengthening Transparency in Regulatory Science rule?

**ANSWER – EPA’s authority for this rulemaking can be found in Section I.C. of the proposed rule, including its ability to promulgate rules under the Administrative Procedure Act.**

- b. Do any of the statutory authorities identified by the proposed rule include the ability to grant exemptions to the treatment of science at the Administrator’s discretion to address issues on a case-by-case basis?

**ANSWER – In developing the proposed rule, EPA drew from various authorities that generally speak to the need for transparency in scientific rulemaking. EPA specifically cited these sources in the proposed rulemaking to allow the public to review and better understand the basis for the proposed rule.**

- c. What science organizations or stakeholder groups were involved in the development of this proposed rule? Please provide a list of all meetings, including teleconferences, with these organizations, including the date, and the name, title, and organizational affiliation of participants.

**ANSWER – EPA has received numerous comments from various groups on the development of the rule. The proposed rule is open for public comment until August 16, 2018. Comments are available for viewing at [regulations.gov](https://www.regulations.gov). EPA will also hold a public hearing seeking feedback on the proposed rule on July 17, 2018.**

- d. Previously, EPA analyzed legislation (The HONEST Act) that would have similar goals and estimated it would cost \$250 million annually to implement. Did EPA develop any cost estimates to implement the proposed rule?

**ANSWER – As stated in the proposed rule, EPA believes the benefits of this proposed rule justify the costs. The benefits of EPA ensuring that dose response data and models underlying pivotal regulatory science are publicly available in a manner sufficient for independent validation are that it will improve the data**

**and scientific quality of the Agency's actions and facilitate expanded data sharing and exploration of key data sets; this is consistent with the conclusions of the National Academies. This action should be implemented in a cost-effective way and is consistent with recent activities of the scientific community and other federal agencies, which will help to lower costs of implementation.**

- e. If so, please provide any cost analysis completed regarding the proposed rule.

**ANSWER – See response to (d) above.**

- f. Why did EPA conclude this is not an economically significant rulemaking? Please explain EPA's analysis associated with this conclusion.

**ANSWER – The proposed rule focuses on strengthening transparency of EPA's regulatory science. The rule will not have an "economically significant" impact on the economy as defined by E.O. 12866 and guidance from OMB.**

- g. Please provide a list of all key meetings and determinations made for this rulemaking during the Action Development Process, including the rulemakings tier, meeting dates and participants in any intra-agency work group meetings, and a list of EPA offices which participated in the development of the rulemaking. For each office, please provide the name, title, and office of each work group participant.

**ANSWER – The proposed rule is being overseen by EPA's Office of Research and Development. The proposed rule continues to develop, including with the comment period open until August 16, 2018, and a public hearing scheduled July 17, 2018.**

- h. Did EPA examine lost benefits or costs associated with EPA's inability to consider certain scientific studies as a result of this proposal?

**ANSWER – As stated above and in the proposed rule, EPA believes the benefits of this proposed rule justify the costs. The benefits of EPA ensuring that dose response data and models underlying pivotal regulatory science are publicly available in a manner sufficient for independent validation are that it will improve the data and scientific quality of the Agency's actions and facilitate expanded data sharing and exploration of key data sets; this is consistent with the conclusions of the National Academies. This action should be implemented in a cost-effective way and is consistent with recent activities of the scientific community and other federal agencies, which will help to lower costs of implementation. One recent analysis found that: "Improvements in reproducibility can be thought of as increasing the net benefits of regulation because they would avoid situations in which costs or benefits are wrongly estimated to occur or in which regulatory costs are imposed without corresponding benefits...." They concluded that "an increase in existing net benefits from greater reproducibility, which, if it occurred, would cover the costs of obtaining the data and making the data available."**

- i. If so, what analysis was done on costs or lost benefits, and what were the results?

**ANSWER – See response to (h) above.**

- j. Many older studies may rely on data that are no longer available. Does EPA have any estimates or analysis of how many studies would be disqualified to be used for major rulemakings under this proposal?

**ANSWER – Since the rule is still in development, EPA cannot comment on the substance or effect of the rule until it is final. EPA is currently accepting public comment on the impact of the rule.**

- k. How long did the Office of Information and Regulatory Affairs (OIRA) take to complete its review of the proposed rule? Please provide the date OIRA accepted and began review, and the date OIRA completed review.

**ANSWER – OMB received the proposed rule on April 19, 2018, and concluded its review on April 23, 2018.**

- l. Did EPA or other executive officials have any communication with the Office of Information and Regulatory Affairs to accelerate this review? If so, please provide the name and title of these individuals.

**ANSWER – OMB reviewed a draft of the proposed rule and indicated to EPA that it had completed its review of the draft on April 23, 2018. It was OMB's discretion to decide when its review was complete.**

- m. Was the Office of Information and Regulatory informed by any EPA official that Administrator Pruitt would be testifying before Congress one week after submitting this proposed rule?

**ANSWER – OMB conducted its review of the proposed rule on its own timeline, and determined when its review was complete.**

- n. Office of Information and Regulatory Affairs reviews of similarly complex rules often take months to complete. What specific factors allowed this review to be completed so quickly?

**ANSWER – See response to (m) above.**

- o. The proposed rule solicits comments in numerous areas, indicating it hopes to develop answers during the regulatory process. Proposals with so many outstanding questions are often released as Advanced Notice of Proposed Rule Makings. Why did EPA propose this as a Notice of Proposed Rulemaking with so many outstanding questions included?

**ANSWER – EPA solicited comments from the public on various areas to better inform the development of the rule. Extending the comment period by roughly two and a half months and also holding a public hearing will provide an opportunity to receive additional useful information for the agency to consider.**

- p. Did the Office of Information and Regulatory Affairs ask EPA to issue an Advanced Notice of Proposed Rulemaking instead? If so, when was this request made and who at OIRA made this request?

**ANSWER – No request was made to issue an Advanced Notice of Proposed Rulemaking.**

2. **OP/ORD Science Advisory Boards (SAB)**

- a. How many current members of EPA Science Advisory Boards are expected to cycle off before the end of this year?

**ANSWER – For the Science Advisory Board (SAB): Seven members are completing their second and final 3-year term, and eight members are completing their first 3-year term. For the Clean Air Scientific Advisory Committee (CASAC): One member is completing their second and final 3-year term, and three members are completing their first 3-year term.**

- b. Since joining the agency, has Administrator Pruitt requested EPA career staff in the SAB Staff Office to provide recommendations for board appointments?

**ANSWER – The career staff in the SAB Staff Office provided senior management with information and various options for the Administrator to consider for both SAB and CASAC appointments**

- c. If so, how many of those recommendations have been accepted of the total amount of new appointees.

**ANSWER – The senior management of the Agency considered the information and options.**

- d. How many EPA Science Advisory Board members have been appointed without input by the SAB Staff Office?

**ANSWER – The SAB Staff Office provided information on all nominated candidates for the Administrator to consider when making appointments.**

- e. How many issues went before EPA Science Advisory Boards or the Clean Air Scientific Advisory Committee (CASAC) for review in each year for the past five years?

**ANSWER – Number of advisory reports per year from the SAB and CASAC:**

<b>Year</b>	<b>SAB</b>	<b>CASAC</b>
<b>2013</b>	<b>7</b>	<b>6</b>
<b>2014</b>	<b>7</b>	<b>7</b>
<b>2015</b>	<b>14</b>	<b>2</b>
<b>2016</b>	<b>6</b>	<b>3</b>
<b>2017</b>	<b>8</b>	<b>4</b>

- f. Does the Administrator plan to seek SAB or CASAC review of the recently proposed Strengthening Transparency in Regulatory Science rule?

**ANSWER – REFERED TO OP**

- g. Does the Administrator plan to seek SAB or CASAC review on any climate change issues?

**ANSWER – REFERED TO OP**

- h. Does the Administrator plan to seek SAB or CASAC review on any aspect of the long-term economic costs and benefits of any changes that have been made or are being proposed under his tenure at EPA?

**ANSWER – REFERED TO OP**

**3. OCSPP/AO The Frank R. Lautenberg Chemical Safety for the 21st Century Act Implementation**

- a. What steps has EPA taken to ensure new and existing chemical reviews include explicit considerations to protect vulnerable populations, as required by statute?

**ANSWER – As required under TSCA, EPA continues to identify and give explicit consideration to “potentially exposed and susceptible subpopulations” for both new and existing chemical reviews. Although the explicit requirement in TSCA is new, the Agency has long given consideration to vulnerable subpopulations. See, for example, EPA's Policy on Evaluating Health Risks to Children (1995). The Agency has evaluated the risk of chemical substances to all sectors of the population, with particular attention to workers, indigenous peoples, pregnant women, children, infants, the elderly, environmental justice communities, and fence-line communities, among others. The Agency utilizes a number of existing guidance documents to evaluate risk at various life stages, and will continue to use and refine these processes to protect the most vulnerable.**

**EPA confirmed its commitment to meet this statutory requirement in the final Risk Evaluation framework rule, and in the scoping and problem formulation documents for the first ten chemical risk evaluations. The problem formulation**

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documents refine the conditions of use and exposures presented in the scope of the risk evaluation and presents refinements to the conceptual models and analysis plan that describe how EPA expects to evaluate risks. EPA welcomes information from communities to further inform our risk evaluations.

EPA has sought input from specific populations and public health experts in implementing TSCA and will continue to do so. For example, EPA has had discussions on several occasions with the National Tribal Toxics Council (NTTC) to receive input on tribal lifeways and exposures. OPPT and the NTTC continue to collaborate on ways to consider tribes in conducting potentially exposed or susceptible subpopulations analyses for Draft Risk Evaluations. OPPT has also had several meetings with AFL-CIO about workers as potentially exposed or susceptible subpopulations and ways in which worker exposure information could be identified and provided for use in the risk evaluation process. OPPT has also sought advice and input regarding children as a susceptible subpopulation from the Children's Health Protection Advisory Committee (CHPAC) through a meeting and recommendations addressing the formal request from EPA for guidance on how risk evaluation should address children.

- b. In November, Administrator Pruitt and EPA staff attended an American Chemistry Council board meeting on South Carolina's Kiawah Island. The Administrator's schedule contains no details of that weekend. Please provide a list of all companies or lobbyists that met with the Administrator in South Carolina.

**ANSWER – OA providing answers to parts b. and c.**

- c. Please provide a list of all chemicals specifically discussed at meetings attended by the Administrator at this event.

**ANSWER – OA providing answers to parts b. and c.**

#### 4. **ORD** Formaldehyde Assessment

- a. Earlier this year, Administrator Pruitt was asked by Senator Ed Markey at the Senate Committee on Environment and Public Works hearing on 1/30/18 about the delayed formaldehyde assessment. At that hearing, Administrator Pruitt said, "Senator, I commit to you that I will look into that and make sure your office is aware of what we have and when we can release it." Please provide an update on the status of the formaldehyde assessment.

**ANSWER – We continue to discuss this assessment with our Agency partners and have no further updates to provide at this time.**

- b. Has EPA concluded its intra-agency review process?

**ANSWER – We continue to discuss this assessment with our Agency partners and have no further updates to provide at this time.**

- c. What additional reviews are needed before it can be finalized?

**ANSWER – We continue to discuss this assessment with our Agency partners and have no further updates to provide at this time.**

- d. When does EPA expect the final report to be released?

**ANSWER – We continue to discuss this assessment with our Agency partners and have no further updates to provide at this time.**

5. **OP** EPA Year in Review 2017-2018 Report

- a. The “EPA Year in Review 2017-2018” report states, “In year one, EPA finalized 22 deregulatory actions, saving Americans more than \$1 billion in regulatory costs.” Please provide a list of each of these actions along with EPA’s analysis of the regulatory cost estimate for each action.

**ANSWER – See attached spreadsheet.**

6. **OW** Lead and Copper Rule

- a. EPA undertook efforts to revise the Lead and Copper Rule more than 13 years ago. In October 2016, the EPA published a white paper on the revisions that included a pledge to issue a proposed rule by the end of 2017. That deadline has passed. When does EPA expect to issue a proposed rule?

**ANSWER - EPA expects to publish proposed revisions to the Lead and Copper Rule by February 2019.**

- b. Has EPA conducted any analysis on how the proposed “Strengthening Transparency in Regulatory Science” rule may impact its ability to regulate lead in drinking water?

**ANSWER - EPA has not conducted an analysis of how this proposed regulation would impact regulations of lead in drinking water. However, consistent with Section 1412b(3)(A), EPA is committed to using the best available peer reviewed science and data collected in accordance with accepted practices to inform decision making under the Safe Drinking Water Act.**

7. **OW** PFAS

- a. EPA announced a National Leadership Summit on Per- and Polyfluoroalkyl Substances (PFAS). What options has EPA discussed internally to regulate or reduce PFAS contamination in drinking water?

**ANSWER - Administrator Pruitt committed to initiate steps to evaluate the need for a maximum contaminant level for PFOA and PFOS at the National Leadership Summit on Per- and Polyfluoroalkyl Substances (PFAS).**

- b. What options have been discussed by staff of EPA and the Department of Defense?

**ANSWER - EPA staff regularly interacts with Department of Defense (DOD) officials as part of our coordination of clean-up of contaminated drinking water at Federal Facilities. EPA has briefed DOD staff on the regulatory processes under the Safe Drinking Water Act including the Contaminant Candidate List, the Regulatory Determinations process and the process for developing National Primary Drinking Water Regulations. DOD staff have offered their opinions on various options, including that EPA should promulgate Maximum Contaminant Levels for PFOA and PFOS.**

- c. Has EPA conducted any analysis on how the proposed “Strengthening Transparency in Regulatory Science” rule may impact its ability to regulate PFAS in drinking water?

**ANSWER - EPA has not conducted an analysis of how this proposed regulation would impact regulations of PFAS in drinking water. However, consistent with Section 1412.b.(3)(A), EPA is committed to using the best available peer reviewed science and data collected in accordance with accepted practices to inform decision making under the Safe Drinking Water Act.**

**8. OCFO Funding for the Office of Inspector General**

- a. The Fiscal Year 2019 budget request includes a significant proposed cut to the EPA Office of Inspector General (OIG). In November 2017, in OIG’s Semiannual Report to Congress, it was reported that “OIG submitted an FY 2019 request for \$62 million to the agency for inclusion in the President’s budget. Without seeking input from the OIG, the agency provided us with a request of \$42 million.” In February, the White House requested only \$37.5 million for the OIG. What was the justification for reducing appropriations and FTEs in the FY 2019 budget request for EPA OIG?
- b. Did the EPA defend its \$42 million request to the Office of Management and Budget?

**9. AO/OEX Freedom of Information Act**

- a. It has been reported that political appointees’ role in reviewing documents requested under the Freedom of Information Act has increased significantly during Administrator Pruitt’s tenure. Please describe the process for “awareness reviews” or “senior management reviews” conducted by political appointees before EPA releases documents involving Administrator Pruitt, including the names and titles of all EPA political appointees who participate.

- b. Please explain EPA Chief of Staff Ryan Jackson's role in conducting awareness reviews. How many FOIA awareness reviews has Mr. Jackson completed, and in how many instances did Mr. Jackson instruct that information be withheld, redacted, or altered prior to public release?
- c. Have any other political appointees ever sought to alter, redact, or withhold portions of a FOIA disclosure following an awareness review?
- d. Please provide the start date, end date, and length of review for all awareness reviews conducted during Administrator Pruitt's tenure at EPA.
- e. Have any of these reviews resulted in a missed FOIA deadline to release documents? If so, please provide details for each instance.
- f. Please explain the rationale for moving the National FOIA office into the Office of General Counsel.
- g. Please explain the role of EPA political appointees Matthew Leopold, Eric Baptist, Marcella Burke, David Fatouhi, and Justin Schwab in the FOIA review process, including any instance where any of these individuals withheld, delayed, redacted, or altered prior to public release?

#### 10. **AO** International Travel

- a. According to EPA emails released under a Freedom of Information Act request, on July 10, 2017, Mr. Matthew Freedman was involved in the planning of the Administrator's potential trip to Australia. Mr. Freedman wrote to EPA staff, "[Richard Smotkin] and I will attend and will be present but will not be listed as members of the delegation." It has been reported that Mr. Richard Smotkin was also involved in the planning of the Administrator's December trip to Morocco. Did Mr. Smotkin meet with Administrator Pruitt or any EPA staff, in official meetings or otherwise, during the Administrator's trip to Morocco?
- b. If so, please provide a full list of meetings between Mr. Smotkin and any EPA officials in Morocco, including any meetings with EPA officials and Moroccan government officials, during official business or otherwise.
- c. Please provide a list of all attendees for any meeting identified in (b).
- d. Recent press accounts indicated Administrator Pruitt and EPA staff missed their connecting flight to Morocco because his security detail's equipment and other gear could not be transferred to the connecting flight in time. This differs from earlier explanations from EPA that the connecting flight was missed due to weather. Please explain why Administrator Pruitt and EPA staff missed their connecting flight.

#### 11. **IO/OECA/OCFO (m&n)** Security

- a. In March, Administrator Pruitt told CBS News, "The quantity and the type of threats I've faced are unprecedented." These threats have been used to justify costly security measures, including first-class travel and full-time protection by a 20-member security detail. How does EPA catalogue threats against officials, including the Administrator?

**ANSWER - EPA collects information on potential threats against employees, including the Administrator, in several ways. The EPA Office of Homeland Security (OHS) provides information on any potential national security threats – domestic or international – and shares this information with the Office of Criminal Enforcement, Forensics and Training's (OCEFT) Protective Service Detail (PSD). Likewise, the EPA office of Inspector General (OIG) tracks instances of threats against EPA employees. The PSD uses information from OHS and the OIG, as well as open-source information and potential security threats from our federal/state/local law enforcement partners. OIG is responsible for receiving and investigates threats directed toward Administrator Pruitt.**

- b. What office is primarily responsible for identifying these threats?

**ANSWER - OCEFT collects threat information from multiple sources as described above.**

- c. What office is primarily responsible for investigating these threats and determining their legitimacy?

**ANSWER - The OIG's Office of Investigations has authority to investigate threats against EPA employees. As you know, the OIG is an independent organization. We recommend that you direct any questions about their roles and responsibilities to the OIG directly.**

- d. Please describe the role in EPA security assessment, investigation, and response of each of the following offices: the Protective Security Detail, the Office of Homeland Security Intelligence Team, the Office of Inspector General, and any other EPA entity that has responsibilities related to the Administrator's security?

**ANSWER - EPA OHS provides information on any potential national security threats – domestic or international – and shares this information with OCEFT/PSD. The OIG tracks instances of threats against EPA employees, reviews and investigates. The PSD uses information from OHS and the OIG, as well as open-source information and potential security threats from our federal/state/local law enforcement partners to assesses the current security climate. OCEFT develops the operational security plan to provide protection for the Administrator.**

- e. If threats are deemed to be serious, are they referred to the FBI or another law enforcement agency outside of EPA?

**ANSWER - EPA's OIG investigates threats made against EPA employees. As you know, the OIG is an independent organization. We recommend that you direct any questions about their roles and responsibilities to the OIG directly.**

- f. Which EPA office determines whether or not to refer threats?

**ANSWER - EPA's OIG makes these determinations. As you know, the OIG is an independent organization. We recommend that you direct any questions about their roles and responsibilities to the OIG directly.**

- g. On how many occasions did such a referral occur in 2017 and 2018?

**ANSWER – We recommend that you direct this question to the OIG directly.**

- h. What spending decisions related to security require sign-off by the head of the Administrator's security detail?

**ANSWER - The Special Agent in Charge of the PSD manages the resources associated with the PSD's operational mission of protecting the Administrator. The SAC/PSD would be responsible for approving travel authorizations for PSD agents and routine expenses associated with managing the PSD including purchases of equipment, training and other associated expenses in accordance with Agency and OCEFT Delegations.**

- i. When did Mr. Nino Perrotta take over the role referenced in (h)?

**ANSWER - Mr. Perrotta became the Acting SAC/PSD in March 2017.**

- j. Before Mr. Perrotta took over this role, who was responsible for those duties?

**ANSWER - Eric Weese was the SAC/PSD prior to SAC Perrotta.**

- k. Why and when was the previous head of the Administrator's security detail removed from that position?

**ANSWER - SAC Weese was reassigned to a new position as the Senior Law Enforcement Intelligence Advisor within the Criminal Investigation Division in March 2017.**

- l. If that employee continued to work at EPA, to where was he reassigned and what is his current employment status?

**ANSWER - SAC Weese was reassigned to a new position as the Senior Law Enforcement Intelligence Advisor within the Criminal Investigation Division in March 2017 and continues in that role today.**

- m. How many EPA security officials hit the \$160,000 annual salary cap due to overtime last year?

**ANSWER – OCFO PULLING DATA**

- n. How does that compare to each of the previous 5 years?

**ANSWER – OCFO PULLING DATA**

- o. On May 1, 2017, Mr. Perrotta sent a memorandum requesting Administrator Pruitt be seated in first or business class on official travel. On how many instances before this memorandum did the Administrator travel in first or business class on official travel?

**ANSWER – NEED AO ANSWER**

- p. On how many instances after this memorandum did the Administrator travel in first or business class on official travel?

**ANSWER – NEED AO ANSWER**

- q. How many times and on what dates did EPA security officials travel with the Administrator for nonofficial business, where the Administrator paid for his own travel expenses?

**ANSWER – OCEFT CAN ANSWER BUT NEED INFO FROM AO ON WHICH TRIPS WERE PRIVATE (they are all official duty for us since we protect 24/7).**

- r. What was the total cost for security officials' airfare, hotel, and per diem for each of these instances?

**ANSWER – ONCE AO PROVIDES INFO OCEFT CAN PROVIDE TOTALS**

- s. Which EPA employee(s) approved the EPA payment to Mrs. Vicki Hart to compensate for a broken door at her condo?

**ANSWER – AO NEEDS TO ANSWER, OCEFT DID PAPERWORK BUT AO GAVE DIRECTION**

- t. Was Administrator Pruitt involved with or notified about that payment?

**ANSWER – NEED AO ANSWER**

- u. It has been reported that EPA entered into a new vehicle lease for a Chevrolet Suburban at \$10,200 annually. This lease was reportedly for a more upscale LT model, instead of the LS model typically leased and included monthly charges of

\$300 for luxury upgrades. What were the terms and rate of the previous vehicle used by the Administrator, and what was the rationale for these upgrades?

**ANSWER – NEED AO ANSWER**

**12. AO The Administrator's Housing Arrangement**

- a. It has been reported that the Administrator's original lease with Mrs. Vicki Hart ended at the end of April 2017, but he did not move out of that condo until later in the year. What were the terms of extending the lease?
- b. On what date did Administrator Pruitt move out of the condo owned by Mrs. Hart?

**The Honorable David Loebsack**

Administrator Pruitt, as I indicated to you at the hearing, I have a lot of concerns about the way in which the small refinery exemptions within the Renewable Fuel Standard (RFS) program have been handled by the Environmental Protection Agency (EPA). There needs to be much more transparency and public accountability in the with respect to the small refinery waiver exemptions. Please provide responses to the following questions regarding small refinery exemptions within the RFS.

1. **QAR** What is the total number of refinery waiver applications that EPA received in each year from 2013 through 2017?
2. **QAR** For each year from 2013 through 2017, how many waivers did the EPA grant?
3. **QAR** What companies have received waivers for each year from 2013 through 2017?
4. **QAR** What is the total volume of biofuel obligation represented by the waivers granted for each year 2013 through 2017?
5. **QAR** What is the EPA process for confirming that each applicant falls beneath the 75,000-barrell throughput capacity?
6. **QAR** Please confirm how the gallons waived under the small refinery exemption process are handled. Are the gallons reassigned to remaining obligated parties for blending? Are they reassigned within the same compliance year? If they are not reassigned to the remaining obligated parties, what is the disposition of those gallons relative to the overall renewable volume obligation set in the annual rule?
7. **QAR** Did you inform President Trump or White House staff of the unusually large number of small refinery exemptions EPA was granting and of the potential effects on the renewable fuel market of exempting additional gallons and facilities and the fact that these actions would not be well received by the agricultural community?



8. **OAR** EPA claimed recently that the Agency did not change the criteria for granting exemptions from those used in past years. Yet, numerous press reports indicate the Agency has granted almost double the amount of waivers than have been granted in past years. What is your explanation for the Agency's granting of an unusually high number of waivers under this program as compared to past years? If the Agency is applying different criteria, please provide an explanation of the changes and the justification for initiating the new criteria.
9. **OAR** Did EPA consult with the Department of Energy on each of the applications for a small refinery exemption for 2016 and 2017? For how many of the applications reviewed by DOE for these two compliance years did EPA disagree with DOE's recommendation to grant or deny the exemption?

**The Honorable Joseph Kennedy, III**

1. **AO** What precipitated the need for a secure phone booth inside of your office? You repeatedly have placed blame at the feet of your staff for the exorbitant \$43,000 cost of the phone booth, but it was you yourself who instructed your staff to find a way to create a secure communications line in your office in the first place. Why do you need that secure line? What is the nature of the phone calls you are making that require an additional "secure" phone line while already in the privacy of your own office? If your office does not provide sufficient privacy, why is one of the two Secure Compartmented Information Facilities (SCIFs) inside the EPA headquarters not sufficient?

## **Attachment 2—Member Requests for the Record**

*During the hearing, Members asked you to provide additional information for the record, and you indicated that you would provide that information. For your convenience, descriptions of the requested information are provided below.*

### **The Honorable Bill Johnson**

1. **OAR** I know that the EPA has expressed interest in finding a resolution to some of the concerns regarding EPA's current brick MACT rule which was issued in 2015. Would you commit to working with me and this committee in providing further information on this work and any potential possibilities?

### **The Honorable Bill Flores**

As the American people are well aware, the EPA under the Obama administration abused environmental regulatory process by ignoring congressional statutes any by circumventing the U.S. Constitution. Fortunately, the federal court system stepped in to protect American families from this abuse of the law. In this regard I have the following questions:

1. **OGC** Can you provide this committee with a list of those overreaching and overturned regulations that were overturned by the court systems?
2. **OP** Can you provide this committee with the economic cost of those overturned regulations?
3. **OP** Can you also inform the committee about EPA's actions, if any, to modify those regulations so those overreaching regulations to conform with the rule of law?

### **The Honorable Richard Hudson**

1. **OCSPP** Was GenX used in a manner that was incompatible with the consent agreement under the Toxic Substances Control Act?

**ANSWER - EPA is investigating the facility to determine whether terms of the 2009 Consent Order were complied with. EPA has not made any final determinations as to whether the use of GenX at the plant was incompatible with the TSCA consent order. EPA is continuing to assess the use of GenX at the plant under**

### **The Honorable Doris O. Matsui**

1. **OAR** You said the EPA has data supporting your decision to revise emission standards for light duty vehicles. Will you commit to providing that data to both side of the committee?

### **The Honorable John P. Sarbanes**

1. **OAR** Did Carl Ichan's company apply for a waiver from ethanol blending requirements for any of its refining facilities?
2. **OAR** Did Carl Ichan's company receive a waiver for any of its refining facilities?

**The Honorable Tony Cardenas**

1. **OGC** In regard to your lease, can you provide the written statement from the attorneys after reviewing it?

**The Honorable Debbie Dingell**

1. **OAR** In regard to the January 25, 2018 guidance to reverse the longstanding once in, always in policy for major sources of hazardous air pollutants, did EPA determine the location of these sources?
2. **OAR** Yes or no, did EPA conduct an analysis of the health effects including the potential increased risk of cancer of this decision before releasing the January 25th guidance memo?
3. **OAR** Yes or no, did EPA conduct an analysis of the potential health effects of this policy on children, babies, or pregnant women before releasing the January 25th?
4. **OAR** Yes or no, did EPA conduct an analysis of the potential health effects of this policy on older Americans or those with chronic health problems before releasing the January 25th guidance?
5. **OAR** Yes or no, did EPA conduct an analysis of the potential health effects of this policy on minority and low-income communities before releasing the January 25th?